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OKLAHOMA CRIMINAL DEFENSE WEEKLY

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(with special thanks to Mark Hoover, OIDS, for contributing regularly)

“I have lived my life, and I have fought my battles, not against the weak and the poor—anybody can do that—but against power, against injustice, against oppression, and I have asked no odds from them, and I never shall.”---Clarence S. Darrow, *Attorney for the Damned* 491, 497 (Arthur Weinberg ed. 1957).

OKLAHOMA

No new cases.

TENTH CIRCUIT

[United States v. Troy A. Gregory](#), No. 20-3232 (10th Cir., November 14, 2022) (Published) (Hartz, Bacharach & Eid): **Sufficiency; Prosecutorial Misconduct (Closing Argument)**: In this case involving multiple counts of bank fraud, the panel affirmed over claims relating to: 1) denial of judgment of acquittal (the

evidence was sufficient); and 2) prosecutorial misconduct in the form of an “extended hypothetical during closing arguments.”

UNITED STATES SUPREME COURT

“Only Supreme Court justices and schoolchildren are expected to and do take the entire summer off.” –*Chief Justice John Roberts (statement made while he served as a lawyer in the Reagan Administration).*

No new cases.

OTHER CASES OF NOTE

[United States v. John David Navarro](#), No. 19-50662 (5th Cir., November 23, 2022): **Guilty Pleas; Sex Offender Registration; Supervised Release:** Navarro pled guilty to a sex offense back in 1998 in Colorado. He moved to Texas in 2013, but did not register there. He then pled guilty to failing to register, completed his term of imprisonment, but the violated his term of supervised release. On appeal, he claimed that is plea was invalid because in 2019 he did not have any obligation to register as a sex offender. The panel agreed and vacated the convictions.

[United States v. Timmy L. Fields](#), No. 20-5521 (6th Cir., November 23, 2022): **Federal Sentencing Guidelines (Serious Drug Offense):** In this appeal involving a conviction on a drug charge that carried a mandatory minimum sentence of 25 years enhanced by two prior “serious drug felonies” the panel reversed the sentence because one of the predicate prior convictions was not a “serious drug felony” (meth-precursor charge under Kentucky law).

VICTORIES

TOM WRIGHT, CJA Panel for the E.D., had a two-day trial representing a client charged with two counts of Aggravated Sexual Abuse in Indian Country.

The jury was out about thirty minutes before returning two not guilty counts.
Great job, Tom!

WASHINGTON COUNTY OIDS TEAM: **Mark Kane** sent me a report on the most recent jury term in Washington County. **Linda Branstetter** prepared for trial last Monday with some evidence that no one thought existed (messages on her jailed client's cell phone from, as Mark put it, the lying but complaining witness which exonerated him). Dismissal and the client walked out of jail that day.

Kris Sanders secured a hung jury on what Mark described as a weird case involving oral sex on the mother-in-law. The client apparently sent a text telling her to get ready for the best oral sex that she had ever had, to which she replied that she was too old for that sort of thing; but the client allegedly snuck into her bedroom and performed the deed anyway without her noticing—a hung jury for that, folks.

Kris also represented a client accused of sex crimes against his estranged daughter and a count of child neglect. The State made a decent offer, but the client did not do the crime and refused to do the time, so he sat in jail for nearly a year before hearing not guilty on all sex offenses, but guilty on the child neglect count—for giving her a sip of his glass of wine—and was sentenced to a whole day in the county jail. The client cried and walked out of the courthouse.

Finally, although not an OIDS attorney anymore, Mark had a jury trial in Nowata County that ended up with two not guilty verdicts for violation of a protective order. The subject of the protective order proclaimed that she loved him, and if she could not have him no one can, and she would lie and send him to prison or kill him. She did not kill him, and thanks to Mark, she did not send him to prison.

Great job by all!

HEARSAY

CRISIS: The Denver, CO, magazine “5280” covers the fentanyl crisis in Denver and in America generally.

ARMORED: The City of Norman has approved the purchase of an armored vehicle for the police department.

COLD CASES: The Delaware County Sheriff's Office has a cold-case unit investigating 15 unsolved homicides dating back to 1973.

ARRESTED: The School Resource Officer in Galena, Kansas, who had a "history of theft" has been cited for shoplifting from the Wal-Mart in Miami.

CRUISERS: The Custer County Sheriff's Office has taken delivery of eight new patrol cars.

DECEASED: A man accused of crashing into, and killing, an OKC police officer has also died.

FAIL: The Oklahoma County Jail has failed another inspection.

AMNESTY: The City of Oklahoma City has extended the penalty reduction/warrant amnesty program through June 30, 2023.

WACKY CRIME

TULSA: Layers of weirdness in a case where a burglary suspect of a restaurant was identified easily by his face tattoos...but stolen from the restaurant were two AR-15 rifles, two shotguns, and a pistol.

TULSA II: A game of Monopoly turned violent in Tulsa, and as Mark Hoover reported, the suspect went to jail, went directly to jail, did not pass Go, and did not collect \$200.00.

TULSA III: He fought the law and resisted arrest...and the law won.

TULSA IV: A mother in Tulsa was told that she could not see her kids...so she opened fire.

OKC: Not to be outdone, an arrest was made in a road-rage incident involving a man...driving a hearse.

PAWNEE: A trooper pulled over a woman in Pawnee County going 110 mph...her excuse was that she was late for Thanksgiving and thought that she was going only 100 mph.

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